



LIVE OAK CITY COUNCIL

REGULAR MEETING AGENDA APRIL 3, 2024 6:00 PM

MEETING LOCATION
LIVE OAK COUNCIL CHAMBERS
9955 LIVE OAK BOULEVARD
LIVE OAK, CALIFORNIA 95953

MEMBERS OF THE COUNCIL

ASHLEY HERNANDEZ, MAYOR
NANCY SANTANA, VICE MAYOR
JERAMY CHAPDELAINE, COUNCILMEMBER
LAKHVIR GHAG, COUNCILMEMBER
BOB WOTEN, COUNCILMEMBER

LUIS CIBRIAN,
ACTING CITY MANAGER

NICOLE ROSSER,
CITY ATTORNEY

The Council may take up any agenda item at any time, regardless of the order listed. Action may be taken on any item on this agenda. Materials related to an item on this Agenda submitted to the Council after distribution of the agenda packet are available for public inspection at City Hall, 9955 Live Oak Boulevard, Live Oak, during normal business hours. Such documents are also available on the City of Live Oak's website at www.liveoakcity.org, subject to staff's availability to post the documents before the meeting.

In compliance with the Americans with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available. If you have a disability and need disability-related modifications or accommodations to participate in this meeting, please contact the City Clerk's office at (530) 695-2112 x107. Requests must be made at least 24 hours in advance.

- **Remote Viewing:**

- Members of the public can view a livestream of the meeting online at https://liveoakca.granicus.com/ViewPublisher.php?view_id=1.
- Members of the public can access the Zoom webinar as follows:
 - **Join by Electronic Device:**
<https://us02web.zoom.us/j/87830359773>
 - **Join by Phone:**
1-669-900-6833 or 1-833-548-0282 (Toll Free)
Webinar ID: 878 3035 9773

- **Public Comment:** Members of the public can submit general public comments, as well as comment on specific agenda items in the following ways:
 - **Public Attendance:** Members of the public who attend in person may make comments from the Council Chamber podium.

- **Live Remote Public Comment:** Members of the public can submit a live remote public comment by:
 - *Joining the virtual Council meeting via the link below. When public comment is opened, raise your virtual hand and be called upon to speak for up to 3 minutes.*

<https://us02web.zoom.us/j/87830359773>
 - *Joining the virtual Council meeting by calling the phone number below. When public comment is opened, dial *9 to raise your hand and be called upon to speak for up to 3 minutes.*

1-669-900-6833 or 1-833-548-0282 (Toll Free)
Webinar ID: 878 3035 9773
 - **Email Public Comment:** Comments from the public on agenda items will be accepted until 1:00 pm on the date of the meeting, via email to the City Clerk at cmenchaca@liveoakcity.org. Comments will be distributed to Council prior to the meeting and attached to the minutes. Please note that emailed comments will NOT be read aloud by staff during the meeting.
 - **eComment Feature:** Comments from the public on agenda items will be accepted until 1:00 pm on the date of the meeting, via the eComment feature at https://liveoakca.granicus.com/ViewPublisher.php?view_id=1. Comments will be distributed to Council prior to the meeting and attached to the minutes. Please note that eComments will NOT be read aloud by staff during the meeting.
-

CALL TO ORDER**ROLL CALL****PLEDGE OF ALLEGIANCE AND INVOCATION****CORRECTIONS AND/OR CHANGES TO THE AGENDA BY CITY MANAGER ONLY****PRESENTATIONS AND RECOGNITIONS**

- A. Recognition of Deputy Ryan Tapia
- B. Sexual Assault Awareness Month Proclamation

PUBLIC COMMENT

Any person wishing to address the City Council on general jurisdictional matters or consent calendar items may do so at this time. If you are commenting on an agenda item, your comments will be heard at the time that item is scheduled for discussion. The City Council adopted a time limit of three minutes per person. The Brown Act does not allow for Council discussion of items not on the agenda. Councilmembers may only a) refer the matter to staff; b) ask for additional information; c) request a report back; or d) provide a limited factual response for items not listed on the agenda.

CONSENT ITEMS

Consent Calendar is passed by one motion with exceptions and separate votes as noted.

1. City Council Meeting Minutes
Recommendation: Approve the March 20, 2024, City Council Regular Meeting minutes.
(Clarissa Menchaca, City Clerk)
2. Update Regarding Archer Avenue Emergency Repair
Recommendation: Receive and file.
(Scott Rolls, City Engineer)
3. Sutter County Planning Commission Appointment
Recommendation: Confirm the appointment of Planning Commissioner Jerry Stewart to the Sutter County Planning Commission.
(Kevin Valente, Planning Director)
4. Resolution Approving Changes to the Compensation of the City Manager and Adopting an Amended Salary Schedule
Recommendation: Adopt resolution changing the City Manager's annual salary from \$150,000 to \$225,000.
(Nicole Rosser, City Attorney)

BUSINESS ITEMS

5. Resolution Appointing Mark Scott as Interim City Manager and Approving an Employment Agreement
Recommendation: Adopt resolution appointing Mark Scott to the position of Interim City Manager and approve an Employment Agreement that establishes the terms and conditions of the appointment.
(Nicole Rosser, City Attorney)

ITEMS REMOVED FROM THE CONSENT AGENDA FOR COUNCIL CONSIDERATION AND ACTION

UPDATES AND ANNOUNCEMENTS FROM THE CITY ATTORNEY AND CITY MANAGER

COUNCILMEMBER COMMENTS

ADJOURNMENT



**City of Live Oak
Report to City Council**

Meeting Date: April 3, 2024

Title: Recognition of Deputy Ryan Tapia



**City of Live Oak
Report to City Council**

Meeting Date: April 3, 2024
Title: Sexual Assault Awareness Month Proclamation
Attachments:

[Proclamation](#)



Proclamation

Sexual Assault Awareness Month April 2024

WHEREAS, sexual assault is an intolerable violent crime with public health implications for every person as a victim/survivor or as a family member, significant other, neighbor or co-worker of a victim/survivor; and

WHEREAS, no one person, organization, agency or community can eliminate sexual assault on their own-we must work together to educate our entire population about what can be done to prevent sexual assault, support victim/survivors and their significant other, and increase support for agencies providing services to victim/survivors; and

WHEREAS, Casa de Esperanza has led the way in addressing sexual assault by providing 24-hour hotline services to victims/survivors and their significant others, responding to emergency calls, offering support and comfort to those impacted by sexual assault during medical exams, criminal proceedings, and empowering those impacted by sexual assault to chart their own course for healing; and

WHEREAS, ending sexual assault must include active public and private efforts to End Sexual Violence in collaboration with Casa de Esperanza including conversation about what sexual violence is, how to prevent it, how to help survivors connect with crucial counseling and other supportive services, and how every segment of our society can work together to better address sexual violence; and

WHEREAS, staff and volunteers of sexual assault programs work year-round to encourage every person to end sexual violence and to support survivors by providing prevention education and survivor empowerment information to schools, churches, civic organizations, as well as medical, mental health, law enforcement, education, and criminal justice personnel regarding sexual assault issues; and

WHEREAS, Casa de Esperanza has set an important example of how forging collaborative relationships between service agencies and organizations serves to improve the quality of service for those most profoundly and directly impacted by sexual violence, this setting an important example for how the rest of the community might work together to speak out and find solutions to sexual violence; and

WHEREAS, Casa de Esperanza request public support and assistance as it continues its efforts to bring real hope for freeing victims from the tragedy of sexual violence to create a future where all women, men and children can live free from violence and exploitation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Live Oak, California in recognition of the important work done by sexual assault programs, in cooperation with Casa de Esperanza, hereby proclaims in the month of April 2024 that "No Means No." Women and men working together can make a difference in the fight against sexual assault and gender violence in our community.

Dated this 3rd day of April, 2024.

Ashley Hernandez, Mayor

Nancy Santana, Vice Mayor

Lakhvir Ghag, Council Member

Jeramy Chapdelaine, Council Member

Bob Woten, Council Member



**City of Live Oak
Report to City Council**

Meeting Date: April 3, 2024

Title: City Council Meeting Minutes

Contact Information: Clarissa Menchaca, City Clerk

Recommendation: Approve the March 20, 2024, City Council Regular Meeting minutes.

Attachments:

[Minutes](#)



LIVE OAK CITY COUNCIL

MINUTES
MARCH 20, 2024
6:00 PM

MEETING LOCATION
LIVE OAK COUNCIL CHAMBERS
9955 LIVE OAK BOULEVARD
LIVE OAK, CALIFORNIA 95953

MEMBERS OF THE COUNCIL

ASHLEY HERNANDEZ, MAYOR
NANCY SANTANA, VICE MAYOR
JERAMY CHAPDELAIN, COUNCILMEMBER
LAKHVIR GHAG, COUNCILMEMBER
BOB WOTEN, COUNCILMEMBER

LUIS CIBRIAN,
ACTING CITY MANAGER

NICOLE ROSSER,
CITY ATTORNEY

CALL TO ORDER

Meeting called to order by Mayor Hernandez at Live Oak City Council Chambers, 9955 Live Oak Boulevard, Live Oak, CA at 6:05 pm.

ROLL CALL

Present: Councilmembers Woten, Chapdelaine, Ghag, Vice Mayor Santana, and Mayor Hernandez

PLEDGE OF ALLEGIANCE AND INVOCATION

Councilmember Ghag led the Pledge of Allegiance. Andrew Berlfein, Church of Glad Tidings, delivered the invocation.

CORRECTIONS AND/OR CHANGES TO THE AGENDA BY CITY MANAGER ONLY

There were no corrections and/or changes to the agenda.

PRESENTATIONS AND RECOGNITIONS

There were no presentations and/or recognitions.

PUBLIC COMMENT

Public Comment was opened and closed without any speakers.

CONSENT ITEMS

Consent Calendar is passed by one motion with exceptions and separate votes as noted.

MOTION: APPROVE THE CONSENT AGENDA.
(MOTION: GHAG; SECOND: SANTANA)

VOTE: MOTION PASSED UNANIMOUSLY

1. City Council Meeting Minutes
Clarissa Menchaca, City Clerk
Council action: March 6, 2024, City Council Regular Meeting minutes approved.

2. City Council Meeting Minutes
Clarissa Menchaca, City Clerk
Council action: March 15, 2024, City Council Special Meeting minutes approved.
3. Update Regarding Archer Avenue Emergency Repair
Scott Rolls, City Engineer
Council action: Received and filed.
4. Fiscal Year 2024-25 Budget Calendar
James Ramsey, Finance Director
Council action: Received and filed.
5. Single Source Purchase of Oxidation Ditch Air Diffuser Repair Parts for the West Oxidation Ditch (Ditch 1) at the Wastewater Treatment Plant
Jeff Nelson, Interim Public Works Director
Council action: 1) Bid from Ovivo USA, LLC for diffuser replacement parts accepted; 2) Acting City Manager authorized to sign the bid; and 3) Wastewater Treatment Plant staff instructed to complete repairs.
6. Resolution Designating Luis Cibrian as Acting City Manager
Nicole Rosser, City Attorney
Council action: Resolution No. 04-2024 adopted.
7. Agreement with Sutter County Fire for Fire Services
Luis Cibrian, Acting City Manager
Council action: Agreement with Sutter County Fire for Fire Services approved.

DISCUSSION ITEMS

8. Discussion and Possible Direction Regarding Future Fire Engine Purchase
John Shalowitz, Sutter County Fire Chief

John Shalowitz, Sutter County Fire Chief, provided a report for the Council.

Brad Hansen, Golden State Fire Apparatus, addressed questions from the Council.

Public Comment was opened and closed without any speakers.

Council action: Direction provided to work with staff on bringing back proposals before the Council.

BUSINESS ITEMS

9. Yuba-Sutter Economic Development District 2020 CEDS Appendices I, IV, and V Updates and 2022 CEDS Annual Performance and Evaluation

Brynda Stranix, District Director of Yuba-Sutter Economic Development District

Brynda Stranix, District Director of Yuba-Sutter Economic Development District, introduced the item.

Cynthia Roderick, Grant Specialist, provided a report for the Council.

Public Comment was opened and closed without any speakers.

MOTION: ADOPT RESOLUTION APPROVING THE 2023 COMPREHENSIVE ECONOMIC DEVELOPMENT PERFORMANCE REPORT AND THE UPDATED APPENDICES I, IV, V, AND AUTHORIZE ITS SUBMITTAL TO THE UNITED STATES DEPARTMENT OF COMMERCE, ECONOMIC DEVELOPMENT ADMINISTRATION AS SET OUT IN THE RESOLUTION.
(MOTION: GHAG; SECOND: HERNANDEZ)

VOTE: MOTION PASSED UNANIMOUSLY

Reference Resolution No. 05-2024.

10. Submittal of an Application for the Assistance to Firefighters Grant

Richard Epperson, Sutter County Battalion Chief

Richard Epperson, Sutter County Battalion Chief, provided a report for the Council.

Public Comment was opened and closed without any speakers.

MOTION: APPROVE SUBMITTAL OF AN APPLICATION FOR THE ASSISTANCE TO FIREFIGHTERS GRANT.
(MOTION: GHAG; SECOND: WOTEN)

VOTE: MOTION PASSED UNANIMOUSLY

11. Agreement with Sutter County Sheriff for Police Services

Luis Cibrian, Acting City Manager

Luis Cibrian, Acting City Manager, introduced the item.

Steve Smith, County Administrator for Sutter County; Brandon Barnes, Sutter County Sheriff; and Scott Smallwood, Sutter County Undersheriff, addressed questions from the Council.

The following member of the public addressed the Council: Brandon Barnes.

MOTION: APPROVE AGREEMENT WITH SUTTER COUNTY SHERIFF FOR POLICE SERVICES.
(MOTION: GHAG; SECOND: HERNANDEZ)

VOTE: MOTION PASSED UNANIMOUSLY

ITEMS REMOVED FROM THE CONSENT AGENDA FOR COUNCIL CONSIDERATION AND ACTION

There were no items removed from the Consent Agenda for Council consideration and action.

UPDATES AND ANNOUNCEMENTS FROM THE CITY ATTORNEY AND CITY MANAGER

Luis Cibrian, Acting City Manager, announced the SayLove Monarch Butterfly Project on City Rec Trail was postponed to Saturday, March 30, 2024, and the Annual Cleanup Day is scheduled for Saturday, April 6, 2024. Mr. Cibrian provided a brief update on the dog park.

COUNCILMEMBER COMMENTS

Councilmember Woten touched on his appreciation of the Sutter County Sheriff and staff.

Councilmember Chapdelaine thanked Sutter County Sheriff and staff for their services and time and effort spent on moving the Sutter County Sheriff contract forward.

Councilmember Ghag highlighted his appreciation for the Sutter County Sheriff and staff.

Vice Mayor Santana touched on her appreciation of the Sutter County Sheriff and staff and discussed working with the school district regarding a school resource officer.

Mayor Hernandez highlighted her attendance at the Oak Haven Ribbon Cutting Ceremony and her appreciation of the Sutter County Sheriff and staff.

ADJOURNMENT

Mayor Hernandez adjourned the regular meeting at 8:38 pm.

Ashley Hernandez, Mayor

ATTEST:

Clarissa Menchaca, City Clerk



City of Live Oak Report to City Council

Meeting Date:	April 3, 2024
Title:	Update Regarding Archer Avenue Emergency Repair
Contact Information:	Scott Rolls, City Engineer
Location:	Archer Avenue
Background:	The City Council adopted Resolution No. 03-2024 on February 21, 2024 declaring an emergency situation exists on Archer Avenue and suspending competitive bidding requirements for this specific repair work.
Analysis:	Staff continues to work with All-American Construction to determine availability of materials and the most cost effective method of executing the repair work. Butte Water District has informed staff that the late rains have delayed their water delivery schedule into May. Staff still intends to complete the repair in April.
Fiscal Impacts:	To be determined.
Recommendation:	Receive and file.



City of Live Oak Report to City Council

Meeting Date:	April 3, 2024
Title:	Sutter County Planning Commission Appointment
Contact Information:	Kevin Valente, AICP, Contract Planner
Location:	Citywide.
Background:	On March 19, 2024, the City of Live Oak Planning Commission nominated Commissioner Jerry Stewart to represent the City of Live Oak on the Sutter County Planning Commission for the year 2024.
Analysis:	Per the Sutter County Ordinance Code Section 72-020 (d) the Live Oak City Council shall nominate the seventh member of the Sutter County Planning Commission from among the members of the Live Oak Planning Commission. Therefore, staff is recommending the Live Oak City Council confirm the appointment of Live Oak Planning Commissioner Jerry Stewart to represent the City of Live Oak on the Sutter County Planning Commission.
Fiscal Impacts:	None.
Recommendation:	Confirm the appointment of Planning Commissioner Jerry Stewart to the Sutter County Planning Commission.



City of Live Oak Report to City Council

Meeting Date:	April 3, 2024
Title:	Resolution Approving Changes to the Compensation of the City Manager and Adopting an Amended Salary Schedule
Contact Information:	Nicole Rosser, City Attorney
Background:	The City Council is recruiting a full-time City Manager. In doing so, it is important to have a flexible salary range to allow for someone to be hired within a broader range. This means that the salary may be lower than traditionally paid or higher, depending upon experience. Setting the salary as a range allows for the Council to have flexibility in hiring.
Fiscal Impacts:	No fiscal change at this time.
Recommendation:	Adopt resolution changing the City Manager's annual salary range from \$150,000 to \$225,000.
Attachments:	

[Resolution
Exhibit A](#)

Resolution No.

Resolution of the City Council of the City of Live Oak, California, Approving Changes to the Compensation of the City Manager and Adopting an Amended Salary Schedule

WHEREAS, the City Council adopted Resolution 02-2024 on February 7, 2024, adopting salaries for Non-Represented Employees which includes the position of City Manager; and

WHEREAS, the City Council is in the process of recruiting a City Manager; and

WHEREAS, the City Council desires to have an updated salary range that would depend on experience, rather than a fixed amount in hiring a City Manager; and

WHEREAS, the City Council desires to set the annual salary range for City Manager from \$150,000.00 to \$225,000.00; and

WHEREAS, the Salary Schedule for Non-Represented Employees has been updated and attached as Exhibit "A" to reflect an increase in the base salary for City Manager.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Live Oak hereby adopts this resolution to update the Salary Schedule for Non-Represented Employees to reflect an increase in the salary for City Manager effective April 3, 2024.

PASSED AND ADOPTED by the City Council of the City of Live Oak this 3rd day of April 2024, by the following vote:

AYES:

NOES:

ABSENT:

NOT VOTING:

APPROVED:

Ashley Hernandez, Mayor

ATTEST:

Clarissa Menchaca, City Clerk

City of Live Oak

Salary Control Points As of 04/03/2024

								Pay for Performance
Classification		Point A	Point B	Point C	Point D	Point E	Point F	
City Manager <i>determined by City Council approved contract</i>	Yr.	150,000.00	-	-	-	-	-	225,000.00
	Mo.	12,500.00	-	-	-	-	-	18,750.00
	Hr.	72.115	-	-	-	-	-	108.173
City Clerk	Yr.	67,600.00	77,740.00	89,401.00	-	-	-	102,811.15
	Mo.	5,633.33	6,478.33	7,450.08	-	-	-	8,567.60
	Hr.	32.500	37.375	42.981	-	-	-	49.430
Finance Director/Assistant City Manager	Yr.	96,196.54	110,626.02	127,219.92	-	-	-	146,302.90
	Mo.	8,016.38	9,218.84	10,601.66	-	-	-	12,191.92
	Hr.	46.249	53.186	61.163	-	-	-	70.338
Executive Assistant to City Manager	Yr.	51,469.64	59,190.08	68,068.60	-	-	-	78,278.89
	Mo.	4,289.13	4,932.51	5,672.39	-	-	-	6,523.25
	Hr.	24.745	28.457	32.726	-	-	-	37.634
Community Development Director	Yr.	73,884.79	84,967.51	97,712.64	-	-	-	112,369.53
	Mo.	6,157.07	7,080.64	8,142.72	-	-	-	9,364.12
	Hr.	35.522	40.849	46.977	-	-	-	54.023
Building Official	Yr.	65,381.43	75,188.67	86,466.97	-	-	-	99,437.02
	Mo.	5,448.45	6,265.72	7,205.59	-	-	-	8,286.42
	Hr.	31.433	36.149	41.571	-	-	-	47.806
Public Works Director	Yr.	80,903.85	93,039.42	106,995.35	-	-	-	123,044.63
	Mo.	6,742.00	7,753.29	8,916.29	-	-	-	10,253.75
	Hr.	38.897	44.730	51.441	-	-	-	59.156

Financial Services Supervisor	Yr.	83,264.24	87,646.56	92,259.54	-	-	-	106,045.45
	Mo.	6,938.68	7,303.88	7,688.30	-	-	-	8,837.12
	Hr.	40.031	42.138	44.356	-	-	-	50.983
Chief Plant Operator	Yr.	88,337.64	92,986.75	97,881.39	103,033.05	108,455.47	114,162.45	
	Mo.	7,361.47	7,748.90	8,156.79	8,586.08	9,037.95	9,513.54	
	Hr.	42.470	44.706	47.058	49.535	52.142	54.886	
Parks & Recreation Director	Yr.	73,884.79	84,967.51	97,712.64	-	-	-	112,369.53
	Mo.	6,157.07	7,080.64	8,142.72	-	-	-	9,364.13
	Hr.	35.522	40.849	46.977	-	-	-	54.023
Management Analyst	Yr.	64,142.61	73,764.00	84,828.59	-	-	-	97,552.88
	Mo.	5,345.23	6,147.00	7,069.05	-	-	-	8,129.41
	Hr.	30.838	35.463	40.783	-	-	-	46.901
Recreation Leader I	Yr.	-	-	-	-	-	-	
	Mo.	-	-	-	-	-	-	
	Hr.	15.496	16.312	17.17	18.074	19.025	19.976	
Recreation Leader II	Yr.	-	-	-	-	-	-	
	Mo.	-	-	-	-	-	-	
	Hr.	16.312	17.17	18.074	19.025	19.976	20.975	
Administrative Aide	Yr.	-	-	-	-	-	-	
	Mo.	-	-	-	-	-	-	
	Hr.	13.000	13.650	14.333	15.049	15.802	-	
Temp. Maintenance Worker 1,000 hrs. Seasonal	Yr.	-	-	-	-	-	-	
	Mo.	-	-	-	-	-	-	
	Hr.	15.496	16.312	17.17	18.074	19.025	19.976	

Aquatics Supervisor	Yr.	-	-	-	-	-	-	-
	Mo.	-	-	-	-	-	-	-
	Hr.	17.868	18.761	19.699	20.684	21.718	22.804	
Head Lifeguard	Yr.	-	-	-	-	-	-	
	Mo.	-	-	-	-	-	-	
	Hr.	16.207	17.017	17.868	18.761	19.699	20.684	
Lifeguard	Yr.	-	-	-	-	-	-	
	Mo.	-	-	-	-	-	-	
	Hr.	15.802	16.592	17.422	18.293	19.208	20.168	
City Planner	Yr.	50,364.85	57,919.57	66,607.50	-	-	-	76,598.61
	Mo.	4,197.07	4,826.63	5,550.63	-	-	-	6,383.21
	Hr.	24.214	27.846	32.023	-	-	-	36.827
Assistant City Planner	Yr.	37,263.80	42,853.37	49,281.37	-	-	-	56,673.58
	Mo.	3,105.32	3,571.12	4,106.79	-	-	-	4,722.79
	Hr.	17.915	20.603	23.693	-	-	-	27.246
Principal Engineer	Yr.	56,693.37	65,197.38	74,976.98	-	-	-	86,223.54
	Mo.	4,724.46	5,433.12	6,248.08	-	-	-	7,185.30
	Hr.	27.256	31.345	36.047	-	-	-	41.454
Associate Engineer	Yr.	51,535.53	59,265.85	68,155.75	-	-	-	78,379.10
	Mo.	4,294.63	4,938.82	5,679.65	-	-	-	6,531.59
	Hr.	24.777	28.493	32.768	-	-	-	37.682
Intern	Yr.	-	-	-				
	Mo.	1,500.00	-	4,000.00				
	Hr.	-	-	-				

City Council	Yr.	-	-	-
	Mo.	656.37	-	-
	Hr.	-	-	-



City of Live Oak Report to City Council

Meeting Date: April 3, 2024

Title: Resolution Appointing Mark Scott as Interim City Manager and Approving an Employment Agreement

Contact Information: Nicole Rosser, City Attorney

Background: The former City Manager, Aaron Palmer, and City of Live Oak entered into a Separation Agreement effective March 8, 2024. Following interviews during a Closed Session meeting on March 15, 2024, the City Council agreed to negotiate with Mark Scott for the position of Interim City Manager. The agreement is being brought before the City Council for review and approval.

Analysis:

The Interim City Manager recruitment garnered a total of nine applications. On March 6, 2024, the Mayor and City Council held a closed session and reviewed applications. After deliberation, the City Council agreed to interview four candidates. Three of those four candidates agreed to be interviewed. The interviews took place on March 15, 2024, where Mr. Scott was selected to serve as the City's Interim City Manager.

The selected candidate is a retired annuitant and under Government Code Section 21221(h), the City Council must make the appointment and approve the employment agreement by resolution. In addition, an appointment under Section 21221(h) requires the City to be actively pursuing a permanent replacement. The City is presently in the process of selecting a recruitment firm to assist with the recruitment for a permanent City Manager. The City will continue to abide by Section 21221(h) and will take further steps to actively recruit for a permanent City Manager. The interim appointment will end when the regular replacement for the vacant position of City Manager for the City commences her or his employment or, if earlier, the date that this appointment is terminated by the City or Mr. Scott.

In accordance with applicable law, the proposed contract limits the number of hours which may be worked in any fiscal year to 960 hours. Further, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate. For Mr. Scott, the rate is \$108. Lastly, in accordance with the applicable law, the employment agreement does not provide for any other benefit, incentive compensation in lieu of benefits, or any other form of compensation in addition to this hourly pay. The Agreement will be effective April 8, 2024.

Fiscal Impacts:

Mark Scott and the City of Live Oak have negotiated a salary of \$108/hour and Mark Scott will be working 30 hours per week. Therefore, the cost to the City of Live Oak shall be the approximate sum of \$3,240/week while Mr. Scott is employed by the City. As Mr. Scott is a PERS annuitant, there will not be any additional benefits, travel expenses or compensation paid to him for his services.

Recommendation:

Adopt resolution appointing Mark Scott to the position of Interim City Manager and approve an Employment Agreement that establishes the terms and conditions of the appointment.

Attachments:

[Resolution Agreement](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVE OAK, CALIFORNIA, APPOINTING MARK SCOTT AS INTERIM CITY MANAGER AND APPROVING AN EMPLOYMENT AGREEMENT

WHEREAS, the City of Live Oak is in the process of actively recruiting a qualified, permanent City Manager; and

WHEREAS, Government Code Section 21221(h) permits the City Council to appoint a retired annuitant to a vacant position requiring specialized skills during recruitment for a permanent appointment, and provides that such appointment will not subject the retired person to reinstatement from retirement or loss of benefits so long as it is a single appointment that does not exceed 960 hours in a fiscal year; and

WHEREAS, the Live Oak City Council desires to appoint Mark Scott as an interim appointment retired annuitant to the vacant position of City Manager for the City of Live Oak under Government Code Section 21221(h), effective April 8, 2024 to allow sufficient time to recruit and hire a permanent City Manager; and

WHEREAS, Mark Scott has over 40 years of municipal government experience, which includes over 30 years of experience serving as a city manager in other, local cities; and

WHEREAS, Government Code Section 7522.6(f) requires that post-retirement employment commence no earlier than 180 days after the retirement date, and Mark Scott satisfies this requirement, in that he has been retired from public service since 2021; and

WHEREAS, this Section 21221(h) appointment shall only be made once and therefore will end on the date immediately preceding the date on which the regular replacement for the vacant position of City Manager for the City of Live Oak commences his or her employment or, if earlier, the date that this appointment is terminated by the City of Live Oak or Mark Scott; and

WHEREAS, the compensation of Mark Scott shall not be less than the minimum nor exceed the maximum published pay schedule for the vacant position of City Manager, divided by 173.333 to equal the hourly rate. Mark Scott has not and will not receive any other benefit, incentive compensation in lieu of benefits or any other form of compensation in addition to this hourly pay rate; and

WHEREAS, the entire employment agreement between Mark Scott and the City of Live Oak has been reviewed by this body and is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Live Oak, as follows:

SECTION 1. The City Council has considered the full record before it, which may include but is not limited to such things as the agenda staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. The City Council hereby appoints Mark Scott as interim City Manager effective April 8, 2024, pursuant to the authority provided under Government Code Section 21221(h) and 7522.56, during the recruitment, selection and employment of a regular City Manager, to provide the critically-needed, specialized skills necessary to run the City of Live Oak.

SECTION 3. The employment agreement with Mark Scott, a copy of which is incorporated herein as Exhibit "A", is approved by the City Council, effective April 8, 2024.

SECTION 4. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Live Oak this 3rd day of April, 2024 by the following vote:

AYES:

NOES:

ABSENT:

NOT VOTING:

APPROVED:

Ashley Hernandez, Mayor

ATTEST:

Clarissa Menchaca, City Clerk

CITY OF LIVE OAK
AGREEMENT FOR EMPLOYMENT OF INTERIM CITY MANAGER

THIS EMPLOYMENT AGREEMENT (this “Agreement”) is made and entered into effective April 8, 2024 (the “Effective Date”), and is by and between the CITY OF LIVE OAK (the “City”) and MARK SCOTT (the “Employee”).

RECITALS

A. The City desires to obtain the service of Employee as Interim City Manager for the City of Live Oak.

B. The Employee desires to be employed in that position.

C. Employee represents he is a retired annuitant of CalPERS within the meaning of Government Code § 21221 (h) and acknowledges that his compensation is statutorily limited as provided in Government Code § 21221(h). Employee represents that, as of the effective date of this Agreement, he has worked for another CalPERS state or contracting agency as a retired annuitant during City's 2023-2024 fiscal year, and he therefore acknowledges he is restricted to working no more than a total of 960 hours for the prior City(ies) and City, a state agency or other CalPERS contracting agencies (collectively "CalPERS Agencies") during City's 2023-2024 fiscal year. Employee represents that he has not received unemployment compensation from any CalPERS agencies during the 12-month period preceding the effective date of this Agreement. Employee further represents that his CalPERS retirement date became effective prior to the 180-day period preceding the effective date of this Agreement.

D. City has determined it is necessary to hire Employee, a retired annuitant, because the position of Interim City Manager requires special skills, and Employee, by virtue of his significant experience as City Manager, has those special skills.

NOW, THEREFORE, City and Employee in consideration of the mutual covenants and agreements herein contained, agree as follows:

SECTION 1
INCORPORATION OF RECITALS

The foregoing recitals are not merely recitals but are contractual in nature and are incorporated herein.

SECTION 2 APPOINTMENT OF INTERIM CITY MANAGER

The City Council of the City hereby appoints Employee to the position of Interim City Manager, in and for the City of Live Oak, California.

SECTION 3 TERM OF AGREEMENT

This Agreement will become effective April 8, 2024 and shall continue in force until terminated pursuant to the conditions specified in Section 6 of this Agreement. This Agreement shall expire as of the first of the following to occur: (i) upon the employment commencement date of a permanent City Manager employed by City; or (ii) upon termination of the Agreement by City or Employee as provided in Section 6 (Termination) of this Agreement.

SECTION 4 AT-WILL EMPLOYMENT

Employee is an “at-will” Employee who shall serve at the pleasure of the City Council. Accordingly, the City Council may terminate Employee’s employment at any time, with or without cause. This provision may not be altered, except by a written instrument executed by Employee and formally adopted by the City Council, which specifically references this Agreement and section.

SECTION 5 DUTIES OF EMPLOYEE

a. Employee agrees to perform any and all duties outlined in the City’s Municipal Code as may be from time to time amended, and such other permissible and proper duties and functions as the City Council may from time to time assign.

b. Included within Employee’s duties shall be to assist the City Council for the recruitment of a permanent City Manager. In light of the provisions of Government Code Section 1090 et. seq., Employee recognizes and agrees it would be a conflict of interest to seek appointment to the position of permanent City Manager and Employee agrees not to seek or accept the permanent position of the City’s City Manager.

c. Employee shall devote thirty (30) hours per week to perform his duties as Interim City Manager. The Employee and City agree that Employee shall be working at the City of

Live Oak, Monday, Tuesday and Wednesday each week during normal business hours. However, the Employee and City are flexible in allocation of these hours given that Employee may work some hours outside of regular business hours including, without limitation, attendance at regular and special Council Meetings, and other meetings and events as may be necessary by the Interim City Manager. Toward that end, Employee shall be allowed reasonable flexibility in setting his own office hours, provided the schedule of such hours provides a significant presence at City Hall, reasonable availability to the City Council, City staff, and members of the community during regular City business hours and for the performance of his duties and of City business. However, in no event shall Employee be required to work more than 959 hours per fiscal year for City, with the further limitation that Employee shall not exceed the 959 hours per fiscal year combined with time previously spent at another jurisdiction. The position of Interim City Manager shall be deemed an exempt position under California wage and hour law.

d. To assist Employee in performance of his duties City shall provide Employee a City cell phone and laptop computer and shall also pay for a service provider for internet access to such laptop computer. Employee shall return the cell phone and laptop computer to City upon termination of this Agreement.

SECTION 6 TERMINATION OF EMPLOYMENT AND SEVERANCE

a. BY CITY. The City may terminate this Agreement at any time with or without cause for any reason upon providing written notice to Employee of such termination without cause. The City Council may also terminate this Agreement in the event of termination with cause. The City's only obligation in the event of termination will be payment to Employee of all compensation then due and owing up to and including the effective date of termination.

b. In addition to termination of Employee without cause, the Employee may be terminated for "cause". The determination of whether there is "cause" for termination may include but shall not be limited to the following:

1. Violation of administrative policies and procedures;
2. Failure to properly perform assigned duties;
3. Theft of City property;
4. Insubordination;
5. Conviction of a felony, or conviction of a misdemeanor relating to Employee's fitness to perform assigned duties;
6. Unauthorized absence from employment;

7. Failure to maintain satisfactory working relationships with other employees or the public;
8. Reporting for work, or being at work, under the influence of or in possession of alcohol or non-prescribed controlled substances;
9. Improper use of City funds;
10. Unauthorized use of City property;
11. An act of moral turpitude or dishonesty; and
12. Other failure of good behavior either during or outside of employment such that Employee's conduct causes discredit to the City.

c. BY EMPLOYEE. The Employee may terminate this Agreement at any time for any reason and make every effort to provide thirty (30) days written notice to City of such termination. The City Council shall have the option in its discretion, to make Employee's termination effective at any time prior to the end of such period, provided City pays Employee all compensation for the hours he has worked prior to the date of termination.

SECTION 7 COMPENSATION/BENEFITS

a. RATE OF PAY AND COMPLIANCE WITH CALPERS REQUIREMENTS. It is the intent of the parties to compensate Employee only to the extent permitted under Government Code § 21221(h) and corresponding CalPERS regulations and policy statements. The Rate of Pay of \$108.00 per hour for his services rendered as Interim City Manager. Payment shall be made to Employee on the same schedule as other City employees, subject to all applicable withholdings and deductions as may be required by law or government regulations. Employee will submit time cards to substantiate his hours worked.

b. RECORDATION AND REPORTING OF HOURS WORKED. Employee will comply with all applicable CalPERS regulations governing employment after retirement, including the recordation and reporting of all hours worked for City to CalPERS as may be required. City shall assist in any such reporting obligations to CalPERS.

c. BENEFITS. No Benefits. Pursuant to Government Code § 21221 (h) and related CalPERS regulations and policy statements, Employee shall not receive from City any benefits City commonly provides to its employees, including without limitation health, dental, or vision insurance coverage, life insurance, employee assistance programs, and similar benefits.

d. VACATION AND LEAVE. No leave. Employee and City agree that Employee in accordance with Government Code Section 21221(h) and related CalPERS regulations and policy statements, shall not be provided or accrue any personal time *off*, vacation, sick leave

(except sick leave which may be required by law), administrative leave, paid holidays or similar leave benefits.

SECTION 8 NOTICES

a. Notices pursuant to this Agreement shall be in writing given by deposit in the custody of the United States Postal Service, first class postage prepaid, addressed as follows:

i. THE CITY

CITY OF LIVE OAK
Live Oak City Hall
9955 Live Oak Blvd.
Live Oak, CA 95953
Attn: City Clerk

cc: RICH, FUIDGE, BORDSEN & GALYEAN, INC.
1129 D Street
Marysville, CA 95901
Attn: Nicole D. Rosser, City Attorney

ii. EMPLOYEE

MARK SCOTT
9745 n. Madison Ridge Road
Fresno, CA 93720

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to Civil Judicial Process. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice, postage prepaid, with the United States Postal Service. Either party may change the address for notices pursuant to this Agreement by providing written notice to the other party as stated above.

SECTION 9 GENERAL PROVISIONS

- a. The text herein shall constitute the entire agreement between the parties.
- b. This Agreement shall be binding upon and inure to the benefit of the successors, assigns, heirs at law and personal representative of Employee.

c. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

d. Pursuant to California Government Code section 53243.2, regardless of the term of this contract, if the contract is terminated, any cash settlement related to the termination that Employee may receive from City shall be fully reimbursed to City if Employee is convicted of a crime involving the abuse of her position.

e. INDEMNIFICATION. Subject to, in accordance with, and to the extent provided by the California Government Claims Act [Government Code Section 810 *et seq.*], City will indemnify, defend, and hold Employee harmless from and against any action, demand, suit, monetary judgment or other legal or administrative proceeding, and any liability, injury, loss or other damages, arising out of any act or omission occurring during Palazzo's tenure as Interim City Manager.

f. BONDING. City shall bear the full cost of any fidelity or other bonds required of the Interim City Manager under any law or ordinance.

IN WITNESS WHEREOF the parties have executed this Agreement on the date set forth below.

Date: _____

Mark Scott, Employee

Date: _____

CITY OF LIVE OAK

By: _____
Ashley Hernandez, its Mayor

Attest:

Clarissa Menchaca, City Clerk